

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**ENERGY DIVISION**

**I. D. #5825**

**RESOLUTION E-4001**

**August 24, 2006**

**RESOLUTION**

**Resolution E-4001 extends to all IOUs policies discussed and adopted on April 13, 2006, in Resolution E-3968 for San Diego Gas and Electric (SDG&E) with respect to Electric Rule 20 overhead to underground conversions.**

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**SUMMARY**

**The Commission implements policies related to Electric Rule 20 Advice Letter filing, approval and use of Rule 20A funds, and overhead facilities conversions classify as capital franchise spending.**

The Commission implements the following Electric Rule 20 filing requirements:

- Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commence date.
- Electric utilities shall not approve and begin an overhead conversion project that requires borrowing more than five years of a community's Electric Rule 20.A allocations without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay the costs over accumulated allocation plus 5 years of borrowing.
- Electric utilities may relocate their overhead facilities at written requests by local communities when these overhead facilities are in conflict with local communities' public improvement projects, and in accordance with the franchise agreements between the electric utilities and these communities. However, if an electric utility and a community decide to convert these overhead facilities to underground instead of overhead relocation, and the net project cost after the community receives an "avoided relocation" credit from the electric utility is still greater than the community's accumulated allocation plus 5 years of allowable future-borrowing, then the electric utility is required to submit an Advice Letter to the Commission requesting approval at least 3 months before commencing this franchise agreement improvement project.

## **BACKGROUND**

**Utilities annually allocate funds under Rule 20 to cities and unincorporated areas of counties to convert overhead electric and telecommunication facilities to underground, and recipients may either bank (accumulate) their allotments, or conversely choose to borrow (mortgage) their undergrounding allotments for five years at most.**

The Commission instituted the current undergrounding program in 1967. It consists of two parts. The first part, under Tariff Rules 15 and 16, requires new subdivisions (and those that were already undergrounded) to provide underground service for all new connections.

The second part of the program governs both when and where a utility may remove overhead lines and replace them with new underground service, and who shall bear the cost of the conversion. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 provides three levels, A, B, and C, of ratepayer funding for the projects.

Under Rule 20, the Commission authorizes the utility to spend a certain amount of money each year on conversion projects and the utility records the cost of each project in its electric plant account for inclusion in its rate base upon completion of the project.<sup>1</sup> Then the Commission authorizes the utility to recover the cost from ratepayers until the project is fully depreciated.

Because ratepayers contribute approximately 80% through utility rates in Electric Rule 20 A programs, the projects must be in the public interest by meeting one or more of the following criteria:

- Eliminate an unusually heavy concentration of overhead lines;
- Involve a street or road with a high volume of public traffic;
- Benefit a civic or public recreation area or area of unusual scenic interest;
- Be listed as an arterial street or major collector as defined in the Governor's Office of Planning and Research (OPR) Guidelines.

On January 6, 2000, the Commission opened Order Instituting Rulemaking (OIR) 00-01-005 to implement Assembly Bill 1149 regarding undergrounding of electric and telecommunication facilities. On December 11, 2001, the Commission issued Decision (D.) 01-12-009 in Phase I of the OIR directing expanded use of Rule 20 funds. Once a community has established a master undergrounding plan and identified a specific project area, it may mortgage its allotment for a total of five years.

Utilities may file Advice Letters to the commission request exemption to the tariff rules.

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<sup>1</sup> Utilities allocate an annual budget for undergrounding within a city or the unincorporated area of a county. Specific details of allocation formulas are shown in Electric Rule 20.A.2 of the tariffs.

## **NOTICE**

Publication in the Commission's Daily Calendar is not required.

## **PROTESTS**

The Commission has received no protests.

## **DISCUSSION**

**The Commission sets new policies to provide a fair opportunity for ratepayers in communities to participate in conversion projects within a reasonable length of time.**

### Fair Opportunity for All Commercial and Residential Customers in Communities to Participate in Overhead Conversion Projects

Decision (D.) 01-12-009 limits communities to borrow five years into their annual conversion allocations. This is a balance between the advantages in cost savings and project administration associated with completing an overhead conversion project in a single phase, and the disadvantages of there being an excessive length of time before residential and commercial customers in a community would have the opportunity to participate in another overhead conversion project.

### Late Filings may Nullify Impacts of CPUC's Decisions on Exemption Requests

A utility may request an exemption to Electric Tariff Rule 20. However, if the Advice Letter is filed after the commencement of an overhead conversion project, the Commission's decision to either grant or deny this request would not prevent the completion of the project because the utility may have partially or fully funded the project. This would put the Commission in the awkward position of choosing which ratepayers to disadvantage, as will be discussed below.

### Fairness to All Ratepayers in California

Disapproving an Advice Letter filed after the commencement of a conversion project, would prevent the utility from charging the community for the portion of project expense over the five years of allowable future allocations. This would result in this community gaining an additional allocation. On the other hand, Commission approval would decrease the allocations available for overhead conversion projects by other customers in the community.

Franchise agreements between utilities and the local communities provide the utilities the right to install utility facilities in public right of way. However, if these facilities are in conflict with public improvements, the utility must relocate the facilities at ratepayers' expense. Utilities may claim this expense under street and highway repair work (capital

franchise spending) in their rate base.

Therefore, the Commission forbids a utility from claiming the portion of a conversion project cost over a community's accumulated allocations plus 5 years of allowable future-borrowing in its rate base under street and highway repair work (capital franchise spending), since this would result in all ratepayers in this utility's service territory paying for a portion of this community's undergrounding project thereby creating an unfair situation for all the other communities.

### Conclusion

Electric utilities may not submit their exemption requests after the commencement of projects when the projects have already been funded. We do not allow such undergrounding conversion cost over-runs to flow into rate base faster than current policy allows. Therefore the Energy Division recommends the Commission adopt the following Electric Rule 20 filing requirements:

- Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commencement date.
- Electric utilities shall not approve and begin an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocations without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocation plus 5 years of borrowing.
- Electric utilities may relocate their overhead facilities at the written request of local communities when these overhead facilities are in conflict with local communities' public improvement projects, and in accordance with the franchise agreements between the electric utilities and these communities. However, if an electric utility and a community decide to convert these overhead facilities to underground instead of overhead relocation, and the net project cost after the community receives an "avoided relocation" credit from the electric utility is still greater than the community's accumulated allocation plus 5 years of allowable borrowing, then the electric utility is required to submit an Advice Letter to the Commission requesting approval at least 3 months before commencing this franchise agreement improvement project.

### COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments, and will be placed on the Commission's agenda no earlier than 30 days from today.

**FINDINGS**

1. The Commission instituted the current undergrounding program in 1967.
2. Tariff Rule 20 is the vehicle for the implementation of the underground conversion programs. Rule 20 provides three levels, A, B, and C, of ratepayer funding for the projects.
3. Rule 20.A projects must be in public interest.
4. The city or unincorporated area of a county may mortgage its allotment for a total of five years.
5. Ratepayers collectively pay through utility rates approximately 80% of the costs Rule 20.A projects.
6. The Commission implements new policies to provide opportunities for all ratepayers in communities to participate in conversion projects within a reasonable length of time.
7. The Commission should deter utilities from late filing of Electric Rule 20 exemption requests that place the Commission in the awkward position of choosing which ratepayers to disadvantage.

**THEREFORE, IT IS ORDERED THAT:**

1. Electric utilities shall file future Advice Letters for deviations from Electric Rule 20, Replacement of Overhead with Underground Electric Facilities, no later than three months before the project commencement date.
2. Electric utilities shall not approve and begin an overhead conversion project that requires borrowing forward more than five years of a community's Electric Rule 20.A allocation without Commission's approval. Without Commission approval allowing otherwise, either pre-arranged community funds or utility shareholders shall pay costs beyond accumulated allocation plus 5 years of borrowing.
3. Electric utilities may relocate their overhead facilities at the written request of local communities when these overhead facilities are in conflict with local communities' public improvement projects, and in accordance with the franchise agreements between the electric utilities and these communities. However, if an electric utility and a community decide to convert these overhead facilities to underground instead of overhead relocation, and the net project cost after the community receives an "avoided relocation" credit from the electric utility is still greater than the community's accumulated allocation plus 5 years of allowable future-borrowing, then the electric utility is required to submit an Advice Letter to the Commission requesting approval at least 3 months before commencing this franchise agreement improvement project.

4. This Resolution is effective today.

I hereby certify that the Public Utilities Commission adopted this Resolution at its regular meeting on August 24, 2006. The following Commissioners voting favorably thereon:

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STEVE LARSON  
Executive Director

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, *Governor***PUBLIC UTILITIES COMMISSION**

505 Van Ness Avenue

San Francisco, CA 94102-3298



I. D. #5825 E-4001

Commission Meeting of August 24, 2006

*July 6, 2006*

To: Pacific Gas and Electric, San Diego Gas and Electric, Southern California Edison, Sierra Pacific, PacifiCorp, and the League of California Cities

Enclosed is draft Resolution E-4001 of the Energy Division. It will be on the August 24, 2006 agenda, which is held at least 30 days after the date of this letter. The Commission may then vote on this Resolution or it may postpone a vote until later.

When the Commission votes on a draft Resolution, it may adopt all or part of it as written, amend, modify, or set it aside and prepare a different Resolution. Only when the Commission acts does the Resolution become binding on the parties.

Parties to the proceeding may submit comments on the draft Resolution. An original and two copies of the comments, with a certificate of service, should be submitted to:

Jerry Royer  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

A copy of the comments should be submitted to:

David K. Lee  
Energy Division  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Parties may submit comments on the draft Resolution by July 17, 2006 and reply comments are due by July 24, 2006. The date of the submission is the date the comments are received by the Energy Division. Parties must serve a copy of their comments on all parties on the service list attached to the draft Resolution on the same date that the comments are submitted to the Energy Division.

Comments shall be limited to five pages in length plus a subject index listing the recommended changes to the draft Resolution, a table of authorities, and an appendix setting forth the proposed findings and ordering paragraphs.

Comments shall focus on factual, legal, or technical errors in the proposed draft Resolution. Comments that merely reargue positions taken by the parties during the proceeding will be accorded no weight and are not to be submitted.

Late submitted comments will ordinarily be rejected. However, in extraordinary circumstances, a request for leave to submit comments late may be filed together with the proposed comments.

An accompanying declaration under penalty of perjury shall be submitted setting forth all the reasons for the late submission.

Brian Schumacher, Supervisor  
Energy Division

Enclosure:  
Draft Resolution  
Service List  
Certificate of Service



### **Certificate of Service**

I certify that I have by mail this day served a true copy of draft Resolution E-4001 on all parties in these filings or their attorneys as shown on the attached list.

Dated July 6, 2006 at San Francisco, California.

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Jerry Royer

Notice: Parties should notify the Energy Division, Public Utilities Commission, 505 Van Ness Ave., Room 4002, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the Resolution number on the service list on which your name appears.

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